



4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2019-N-0075]

Agency Information Collection Activities; Proposed Collection; Comment Request; Experimental Study on Measuring Consumer Comprehension of Displays of Harmful and Potentially Harmful Constituents in Tobacco Products and Tobacco Smoke

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the *Federal Register* concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on an experimental study on measuring consumer comprehension of displays of harmful and potentially harmful constituents (HPHCs) in tobacco products and tobacco smoke.

DATES: Submit either electronic or written comments on the collection of information by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. The <https://www.regulations.gov> electronic filing system will accept comments

until midnight Eastern Time at the end of **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- Mail/Hand delivery/Courier (for written/paper submissions): Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All submissions received must include the Docket No. FDA-2019-N-0075 for “Experimental Study on Measuring Consumer Comprehension of Displays of Harmful and Potentially Harmful Constituent in Tobacco Products and Tobacco Smoke.” Received comments, those filed in a timely manner (see ADDRESSES), will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions--To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made

publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.”

Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 301-796-8867, PRASStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. “Collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the *Federal Register* concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this

requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Experimental Study on Measuring Consumer Comprehension of Displays of Harmful and Potentially Harmful Constituents in Tobacco Products and Tobacco Smoke

OMB Control Number 0910--NEW

On June 22, 2009, the Family Smoking Prevention and Tobacco Control Act (Pub. L. 111-31) (Tobacco Control Act) was signed into law. This law amended the Federal Food, Drug, and Cosmetic Act (FD&C Act) and granted FDA the authority to regulate the manufacture, marketing, and distribution of cigarettes, cigarette tobacco, roll-your-own tobacco, and smokeless tobacco products to protect the public health and to reduce tobacco use by minors. The Tobacco Control Act also gave FDA the authority to issue regulations deeming other products that meet the statutory definition of a tobacco product to be subject to chapter IX of the FD&C Act (section 901(b) of the FD&C Act (21 U.S.C. 387a(b))).

In accordance with that authority, on May 10, 2016, FDA issued a final rule deeming all products that meet the statutory definition of tobacco product, except accessories of newly

deemed tobacco products, to be subject to FDA’s tobacco product authority. The deemed products include electronic nicotine delivery systems, cigars, waterpipe (hookah), pipe tobacco, nicotine gels, dissolvables that were not already subject to the FD&C Act, and other tobacco products that may be developed in the future (final deeming rule) (81 FR 28973).

Among other requirements, section 904(e) of the FD&C Act (21 U.S.C. 387d(e)) requires FDA to establish, and periodically revise as appropriate, a list of HPHCs, including smoke constituents, to health in each tobacco product by brand and by quantity in each brand and subbrand. Section 904(d)(1) of the FD&C Act further requires that this list be published in a format that is understandable and not misleading to a lay person (the Section 904(d) list).

FDA has undertaken a rigorous science-based research approach to ensure that the Section 904(d) list is not misleading to lay persons. As part of this research, FDA is seeking to conduct an experimental/quantitative study (4,500 online surveys), consisting of adult and youth (aged 13-17) participants to evaluate the best way to convey information about HPHCs in tobacco products and tobacco smoke, by brand and by quantity in each brand and subbrand, in a format that is understandable and not misleading to a lay person. Participants will view sample formats and complete an online survey that will include questions regarding their understanding of the HPHC information presented to them. The purpose of the research is to gain insight on consumer comprehension of, and preferences regarding, HPHC presentations that will inform the Agency’s efforts in connection with publishing the Section 904(d) list.

FDA estimates the burden of this new information collection as follows:

Table 1.--Estimated Annual Reporting Burden¹

Type of Respondent	No. of Respondents	No. of Responses per Respondent	Total Annual Responses	Average Burden per Response	Total Hours
Youth Screener	1,800	1	1,800	0.05	90

Youth Survey	1,500	1	1,500	0.33	500
Total Youth Hours					590
Adult Screener	3,400	1	3,400	0.05	170
Adult Survey	3,000	1	3,000	0.33	1,000
Total Adult Hours					1,170
Total Burden Hours					1,760

¹There are no capital costs or operating and maintenance costs associated with this collection of information.

For this study, potential participants will be recruited by a market research firm that maintains an internet panel, and information will be collected through self-administered, online screening tests and surveys of youth aged 13-17 and adults aged 18 and older. Approximately 5,200 respondents (1,800 youth and 3,400 adults) will be requested to complete a screening test to determine eligibility for participation in the study, estimated to take approximately 3 minutes (0.05 hour) per screening test, for a total of 260 hours for screening activities. Respondents who qualify for the study will be directed to the survey. Approximately 4,500 participants (1,500 youth and 3,000 adults) will complete the survey, estimated to take 20 minutes (0.33 hour) per survey, for a total of 1,500 hours for completion of both adult and adolescent samples. The length of time to complete the screening test and survey are based on the research firm's experience that panel members answer approximately 2.5 questions per minute. This data collection will take place one time in 2019. Thus, the total estimated burden is estimated to be 1,760 hours.

Dated: February 5, 2019.

Lowell J. Schiller,

Acting Associate Commissioner for Policy.

[FR Doc. 2019-01819 Filed: 2/8/2019 8:45 am; Publication Date: 2/11/2019]